

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF OKLAHOMA

FILED

FEB 22 2011

ROBERT D. DENNIS, CLERK
U.S. DIST. COURT, WESTERN DIST. OF OKLA.
BY Yuh DEPUTY

MADYUN ABDULHASEEB,

Plaintiff,

VS.

SAM CALBONE et al.,

Defendants.

No. CIV-05-1211-W

ORDER

This matter comes before the Court on the Motion to Have Court Dismiss Appointed Counsel filed by plaintiff Madyun Abdulhaseeb, proceeding pro se. Counsel Don J. Gutteridge, Jr., as directed by the Court, has filed a response.

Abdulhaseeb, who is in the custody of the Oklahoma Department of Corrections and who allegedly follows the Islamic faith, has claimed in this lawsuit that the defendants violated the Religious Land Use and Institutionalized Persons Act of 2000, 42 U.S.C. 2000cc et seq. After appeal to the United States Court of Appeals for the Tenth Circuit, two claims remained for resolution: whether Abdulhaseeb's exercise of religion was substantially burdened when officials at Oklahoma State Penitentiary denied his request for a halal diet and whether his exercise of religion was substantially burdened when his request in January 2005 for halal meat as part of his celebration of the Eid-ul-Adha was denied.

Pursuant to the mandate issued by the appellate court that directed the Court on remand to appoint counsel for Abdulhaseeb, see *Abdulhaseeb v. Calbone*, 600 F.3d 1301,

1306 n.2 (10th Cir. 2010), the Court on May 26, 2010, appointed Gutteridge to represent Abdulhaseeb in this matter. See Doc. 151.

Abdulhaseeb has set forth in his submission to the Court the reasons why he believes Gutteridge should be removed as his counsel of record. Gutteridge in his response has addressed some, but not all, of Abdulhaseeb's grounds for removal. In this connection, Gutteridge has not disputed Abdulhaseeb's contention that Gutteridge gave him no warning that he was to be deposed by the defendants in December 2010 or on January 24, 2011. Gutteridge has likewise not specifically disputed Abdulhaseeb's contention that he (Gutteridge) has neither written nor talked to his client since September 2010, or Abdulhaseeb's assertion that Gutteridge has "kept . . . [him] ignorant of the developments of the case and [has] . . . not provided [him] . . . with copies of important documents filed in the case." Declaration of Madyun Abdulhaseeb (January 26, 2011) at 1, ¶ 4.

Gutteridge has denied Abdulhaseeb's contention that he dismissed Abdulhaseeb's claim that his exercise of religion was substantially burdened when his request in January 2005 for halal meat as part of his celebration of the Eid-ul-Adha was denied. As indicated, such claim remains pending.

Gutteridge has likewise refuted Abdulhaseeb's contention that no witness list or exhibit list was filed on his behalf. The record, however, indicates that while Gutteridge has filed a witness list, see Doc. 165, identifying as witnesses both Abdulhaseeb and Faruq Rasheed, Gutteridge has, to date, not filed an exhibit list indicating the exhibits that are to used or that may be used, if the need arises, in Abdulhaseeb's case-in-chief.

Under the circumstances and because the reasons identified by Abdulhaseeb support a finding that Gutteridge should be relieved as counsel of record in this matter, the Court finds that Abdulhaseeb is entitled to the relief he has requested.

Accordingly, the Court in its discretion

(1) GRANTS Abdulhaseeb's "Pro Se Motion to Have Court Dismiss Appointed Counsel" [Doc. 170] file-stamped January 28, 2011;

(2) hereby ORDERS that Gutteridge should be and is hereby relieved as counsel of record for Abdulhaseeb;

(3) ADVISES the parties that the Court intends to seek new counsel to represent Abdulhaseeb in this matter, if new counsel can be found;

(4) further ADVISES the parties that this matter is STAYED and all deadlines are SUSPENDED until further Order of the Court; and

(5) DIRECTS the Clerk of the Court to mail a copy of this Order to Madyun Abdulhaseeb a/k/a Jerry L. Thomas, #85779, Lawton-LCF, 8607 S.E. Flower Mound Road, Lawton, OK 73501.

ENTERED this 22nd day of February, 2011.


LEE R. WEST
UNITED STATES DISTRICT JUDGE